

Application No. 10/661,795
Response dated October 6, 2005
Reply to Office Action of July 18, 2005 and
and Telephonic Interviews of September 29, 2005
and October 3, 2005

Amendments to the Drawings:

The sheets of drawings attached to this Amendment after page 7 hereof present Figs. 1-4 in better and more formal form. As there are no changes to the drawings apart from presenting them in better form, it is not possible to present a marked up copy showing changes. Accordingly, no such markup is included.

REMARKS

The present Amendment is presented in response to the Office Action (final) of July 18, 2005 and the telephonic Examiner Interviews of September 29, 2005 and October 3, 2005, in order to place the application in better condition for appeal and allowance. In particular, amendments to claims 1 and 7 were made in response to concerns expressed by the Examiner during the telephonic interviews.

The first telephonic Examiner Interviews was held among Examiner Basil Katcheves, applicant Kenneth Peter Bowman and applicant's attorney Glenn P. Rickards. The second interview was held between Examiner Katcheves and applicant's attorney. Applicant appreciates the professionalism and helpfulness exhibited by Examiner Katcheves during the interview.

During the interviews, selected portions of the then-current claims, the specification of the application, the drawings, the response to the prior Office Action and the prior art applied by the Examiner were discussed. In particular, after discussions during the interview, the Examiner indicated his understanding that at least the steps of:

“expanding a foaming material between the framing member and the shim plate to support the shim plate relative to the framing member,” (claim 1, line 9-10); and

“positioning finishing material on top of the sill portion of the shim plate and fastening the finishing material to the framing member using fasteners extending through the shim plate,” (claim 1, lines 11-13)

differentiated this claim from the cited prior art. In this regard, the specification states:

“As shown in Fig. 2, the window opening may be conformed to the window frame by use of a shim plate 20. The shim plate may be made of metal, such as 24 gauge galvanized steel, or of a plastic or composite material. Referring to Figs. 2 and 4, the shim plate of the present embodiment comprises a sill portion 22 and a fastening flange 24. The width of the shim plate 20 is sufficient to extend

from the interior edge 32 of the framing member to a position beneath the base 16 of the frame of the window 10.

According to one embodiment, the shim plate 20 may be used by positioning it with its distal end under the base 16 of the window frame 10. The shim plate 20 is then leveled and fastened in place, on the interior surface 32 of the associated framing member 30 as by nails or screws.

In order to support the sill portion 22 of the shim plate 20 so that nails may be driven through it, an expanding foam 26 may be used between the lower surface 28 of the sill portion 22 of the shim plate 20 and the upper surface 34 of the framing member 30. The foam may be applied to the upper surface 34 of the framing member 30 (or to the lower surface 28 of the sill portion 22 of the shim plate 20) before the shim plate 20 is positioned and fastened in place. Alternatively, apertures (not shown) could be provided along the length of the sill portion 22 or fastening flange 24 of the shim plate 20, and the foam could be injected under the shim plate 20,” (page 4, line 19 – page 5, line 20).

In addition, the participants in the interview discussed the following portions of claim 1 that are absent in the art of record:

“ . . . the shim plate having a sill portion (see, e.g., Fig 2, element 28) and a fastening flange (see, e.g., Fig 2, element 26),” (claim 1, line 4); and

“affixing the fastening flange of the shim plate to the interior surface of the framing member,” (claim 1, lines 5-6).

The following passage from our response to the Office Action of January 31, 2005 was read and discussed during the interview. The participants discussed this passage in connection with differentiation of claim 1 from the teachings of U.S. Patent No. 2,697,932 to Goodwin:

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“By contrast, a method that may be used to fasten the shim plate 20 of the present application to the framing member is described as follows at page, 5, lines 4-7:

‘According to one embodiment, the shim plate 20 may be used by positioning it with its distal end under the base 16 of the window frame 10. The shim plate 20 is then leveled and fastened in place, on the interior surface 32 of the associated framing member 30 as by nails or screws,’ (page 4, lines 14-21).

The response to the Office Action of January 31, 2005 also contains explanations that the sill 10 of Goodwin does not have any fasteners extending through it (see pages 5 and 6 of the Amendment in response to the Office Action of January 31, 2005.

Accordingly, all claims of the present application are in allowable form and reconsideration and withdrawal of the rejection thereof is respectfully requested.

Respectfully submitted,

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